

Report faults Economic Development Office

DOVER, May 20, 2006

The Delaware Economic Development Office did not follow the state's bidding laws for awarding contracts and provided incorrect information to legislators, according to findings in a report released Friday by the state auditor's office.

To get around the state law requiring contracts of \$50,000 or more to go through a competitive bidding process, DEDO awarded contracts just below the threshold but not factor in additional costs the state would pay the contractor, the report said.

Had those costs been considered, the report said, bids would have been required.

DEDO has awarded a series of contracts just below the \$50,000 level, the report said, to avoid one large contract that would have to have been bid out.

"That is a way to circumvent the bid laws," state Auditor R. Thomas Wagner said.

"I had a department once that had three contracts with the same entity for \$49,000 each, and that is obviously circumventing the bids laws.

"This case would give every appearance that DEDO circumvented the bid laws."

DEDO also improperly awarded a contract to the University of Delaware to develop its Comprehensive Economic Development Strategy, the report said.

Instead of going through the bid process, DEDO decided only UD could provide the necessary services and awarded the contract.

Though state law provides for such action, Mr. Wagner said the scenario did not meet the legal criteria for avoiding the bid process because other groups could have provided similar services.

"You have bid laws so you can give everybody a fair right to bid on the business," Mr. Wagner said.

"The thinking is if you put stuff out to bid, competition will get you better prices."

General Assembly members have been investigating DEDO since its director, Judy McKinney-Cherry, abruptly fired 10 employees in July.

The legislature's Joint Sunset Committee, which evaluates state agencies, has been investigating DEDO's Council on Development Finance, which advises the agency on making grants to companies.

The audit suggested DEDO and the council be more exact when determining grant awards.

Rep. Joseph G. DiPinto, R-Wilmington, co-chair of the budget-writing Joint Finance Committee, said he and Sen. Nancy W. Cook, D-Kenton, the other co-chair, have been looking into issues

similar to those raised in the audit in the wake of the July firings and complaints the committee has received.

"We were really concerned about the basic functioning of the office," he said.

"It is a really important office and its role to the state is important."

In DEDO's response to the contract issues and other findings, the agency said it has already begun giving personnel better training and has changed accounting and record-keeping procedures to prevent future problems.

"DEDO has responded immediately with action," said Mark Brainard, chief of staff for Gov. Ruth Ann Minner.

"The auditor concurred with all of the corrective actions DEDO has put or is putting in place. The thing to focus on is the leadership of DEDO responded immediately and took appropriate action."

For example, Ms. McKinney-Cherry said agency staff will have to take a budgeting and accounting course that includes instruction on the state's bidding laws and keep state procurement manuals on their desks to ensure compliance in future contracts.

"We were pleased to see that the auditor recognized the steps we are taking in response to the findings and recommendations," Ms. McKinney-Cherry said.

"We are moving forward."

Rep. DiPinto and the rest of the Joint Finance Committee have yet to decide DEDO's budget for the coming fiscal year, but could act on a spending plan next week as they continue deliberations.

The audit report revealed that DEDO in 2004 misstated to the JFC the amount it paid a human resources consultant by \$5,400 because it did not include the amount it had reimbursed the contractor for expenses.

The extra \$5,400 would have put the contract over the \$50,000 level, which meant it should have gone through the bid process.

Rep. DiPinto said the company inquired about the agency's consultant contracts because it was concerned DEDO had not been following the bidding laws.

Though the auditor's office found the agency violated state law, there's no legal action that can be brought.

"You can't undo what they did," Mr. Wagner said.